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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,673	03/12/2001	Eric B. Remer	42390P10680	1993

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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT PAPER NUMBER

2134

DATE MAILED: 05/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/804,673

Applicant(s)

REMER ET AL.

Examiner

Christopher J. Brown

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/08/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The objection to claim 18 has been withdrawn.

As per Applicant's arguments filed 11/08/04 have been fully considered but they are not persuasive. With regard to claim 12, the applicants argument that it was not addressed in the office action and therefore should be allowable, is not persuasive. The rejection of the claim is stated on page 5 of the previous office action.

The applicants argument that claims 12 and 27 are non-obvious because the art cited does not report the usage time to a user, have been considered but are not persuasive.

Griswold states that if datagrams are sent every hour the licensee will be billed by an hourly rate, (Col 4 lines 37-40). Reeder teaches transmitting the transaction details, (Col 14 lines 52-58). It would have been obvious to one skilled in the art to include showing usage to a user so that a user may be able to distinguish cost per usage of an application.

Response to Amendment

2. Applicant's arguments with respect to claims 1-4, 6-9, 11, 13-16, 18, 20-24, and 28-33 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-8, 11, 13-16, 18, 19 20-24, and 28-33 are rejected under 35 U.S.C.

103(a) as being unpatentable over Griswold US 5,940,504 in view of Choate US 2001/0054026

As per claims 1, 8, 15, 16, 20-24, 30-33 Griswold discloses a method to manage use of a program wherein it is determined whether a monitored program (Licensed product) is authorized to execute by sending a request datagram to the Licensor, (Col 4 lines 34-40). Griswold discloses measuring a usage time for said monitored program, and sending it to a monitoring program (Licensor), (Col 4 line 38, Col 6 line 10-19).

As per claim 2, Griswold discloses receiving a request for authorization to execute from said monitored program, (Col 5 lines 47-52). Griswold discloses authorizing the monitored program for a time interval (hourly use), (Col 4 lines 23-25, Col 6 lines 14-19). Griswold discloses renting via a least (Col 7 lines 15-18).

Griswold does not disclose the method that the user receives the program, time interval or license.

Choate teaches a distribution method of programs licenses and time intervals. Choate teaches that a user may download, or have the item sent to them. Choate teaches sending and receiving a variety of software, including licenses and time intervals which a monitor program then utilizes, [0021], [0031].

It would have been obvious to one of ordinary skill in the art to combine the distribution of software over the net from Choate with the monitoring system of Griswold, because net distribution is faster and more economical.

As per claim 3, Griswold discloses repeating operations a) to c) (repeated datagrams on time intervals) until a terminating event has occurred (denial), (Col 6 lines 15-20, Col 5 lines 40-43).

As per claim 4, Griswold teaches adding each time interval together to form a time usage, (Col 4 lines 35-40).

As per claim 6, 18, 19 Griswold discloses a terminating event comprising failure to receive another request for authorization due to a detachment from the network, (Col 4 lines 19-23).

As per claim 7, Griswold teaches encryption in authorization requests, (Col 8 lines 3-7).

As per claims 11, 14, and 29 Griswold teaches time interval in an authorization table (Datagram Number, Sent Date& Time, Send Interval), and sending part of the table to the licensor via datagram (Fig 2, Col 6 lines 1-15).

As per claims 13, and 28 Griswold teaches determining cost value of usage, (Col 4 lines 35-40).

Claims 5, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Choate US 2001/0054026 in view of Mita US 5,291596.

As per claims 5, and 17,

The Griswold-Choate combination does not disclose a termination message.

Mita teaches a termination message indicating the program has stopped executing, (Col 6 lines 8-22).

It would have been obvious for one of ordinary skill to add Mita's termination notice to Griswold's program authorization system, so that Griswold would be able to better manage the availability of programs for the licensee, (Mita line 15) (Griswold table 1, Col 11, #4).

Claims 9, 10, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Choate US 2001/0054026 in view of Munguia US 2001/0052013.

As per claims 9, 10, 25, and 26, The Griswold-Choate combination does not disclose http, Griswold-Choate discloses TCP/IP.

Munguia teaches communicating with a version of http, https, ([53]). It would have been obvious to one skilled in the art to use https communicating over the Internet in Griswold, because https is secure.

Claims 12, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griswold US 5,940,504 in view of Reeder US 6141652.

As per claims 12, and 27, Griswold does not disclose showing usage to a user.

Reeder teaches an internet account system based on billing. Reeder discloses displaying the amount usage to a user, (Col 14 line 54).

It would have been obvious to one skilled in the art to include showing usage to a user with Griswold's system so that a user may be able to distinguish cost and time usage of an application.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

4/19/05


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